

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-7493

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

FRANK LATHAN HINTON,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Raymond A. Jackson, District Judge. (CR-94-106)

Submitted: December 16, 2002

Decided: December 20, 2002

Before LUTTIG, MICHAEL, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Frank Lathan Hinton, Appellant Pro Se. Arenda L. Wright Allen, Assistant United States Attorney, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Frank Lathan Hinton, a federal prisoner, seeks to appeal the district court's order denying relief on his motion filed under 28 U.S.C. § 2255 (2000). An appeal may not be taken from the final order in a proceeding under § 2255 unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(B) (2000). When, as here, a district court dismisses a § 2255 motion solely on procedural grounds, a certificate of appealability will not issue unless the movant can demonstrate both "(1) 'that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right' and (2) 'that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.'" Rose v. Lee, 252 F.3d 676, 684 (4th Cir.) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)), cert. denied, 122 S. Ct. 318 (2001). We have reviewed the record and conclude for the reasons stated by the district court that Hinton has not made the requisite showing. See United States v. Hinton, No. CR-94-106 (E.D. Va. filed July 30, 2002; entered July 31, 2002). Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED